



Refer to: WDSC-YP

**[Receipt Of This Notice Is Presumed To Be October 30, 2019- Date Notice Faxed]  
Important Notice - Please Read Carefully**

**Faxed to: (415) 759-2374 and  
Emailed to: [Maggie.rykowski@sfdph.org](mailto:Maggie.rykowski@sfdph.org)**

October 30, 2019

CMS Certification Number (CCN): 55-5020

CMP Case Number: 2019-09-LTC-208

Margaret Rykowski, Administrator  
Laguna Honda Hospital & Rehabilitation Center DP SNF  
375 Laguna Honda Blvd.  
San Francisco, CA 94116

Dear Ms. Rykowski:

**The Civil Money Penalty Imposed on the Basis of the Complaint First Follow-Up Survey  
Completed on September 6, 2019 Is Now Due and Payable on November 14, 2019.**

As you were previously informed, a complaint survey completed on July 12, 2019 by the California Department of Public Health (State Survey Agency) found that your facility, Laguna Honda Hospital & Rehabilitation Center DP SNF, was not in substantial compliance with the applicable Federal requirements for nursing homes participating in the Medicare and/or Medicaid Programs under Titles XVIII and XIX of the Social Security Act. See 42 C.F.R. Part 483. Indeed, these survey findings documented that the cited deficiencies posed immediate jeopardy to residents' health and safety of which the facility was notified on July 11, 2019 at 3:40 pm. The immediate jeopardy was determined to be subsequently abated on July 12, 2019 at 6:36 pm. Furthermore, the July 12, 2019 survey also documented that your facility provided "substandard quality of care" as that term is defined in 42 C.F.R. §488.301.

Accordingly, on September 3, 2019, the Centers for Medicare and Medicaid Services (CMS) notified you that certain remedies were being imposed against your facility. Specifically, we informed you that, as a result of the certification/finding of noncompliance based on our determination that your facility was not in substantial compliance with the participation requirements at 42 C.F.R. Part 483 as documented during the survey completed on July 12, 2019, we were imposing against your facility a denial of payment for new admissions, pursuant to 42 C.F.R. § 488.417(a), effective September 18, 2019.

In addition, you were notified in this same September 3, 2019 letter that a civil money penalty was being imposed, pursuant to 42 C.F.R. § 488.30, in the amount of \$6,740.00 per day beginning on February 6, 2019 through July 11, 2019 and totaled \$1,051,440.00 for the 156 days that immediate jeopardy to residents' health and safety existed; and continuing at the reduced amount of \$1,285.00 per day effective July 12, 2019 and continuing each day thereafter until further notice from CMS.

You were advised that both remedies would remain in effect until this office either terminated your Medicare provider agreement, or determined that your facility had come into substantial compliance with the applicable Federal health and safety requirements. You were further informed in our September 3, 2019 notice that CMS would terminate your Medicare provider agreement no later than **January 12, 2020**-- six (6) months from the last day of the July 12, 2019 survey documenting your failure to be in substantial compliance -- if substantial compliance with the Medicare/Medicaid participation requirements was not promptly achieved and maintained. See 42 U.S.C. § 1395i-3(h)(2)(C) and 42 C.F.R. § 488.412(d); see also 42 U.S.C. § 1395cc(b)(2); 42 C.F.R. §§ 488.56(b)(1) & 488.53(a)(1) and (3).

### **First Follow-Up Survey Completed on September 6, 2019**

In response to your allegations that you had corrected all deficiencies identified during the July 12, 2019 survey, and were otherwise in substantial compliance with the nursing home requirements at 42 C.F.R. Part 483, the State Survey Agency conducted a follow-up survey at your facility. This survey, which was completed on September 6, 2019, again documented that, notwithstanding your representation of compliance, Laguna Honda Hospital & Rehabilitation Center DP SNF was not in substantial compliance with participating requirements at 42 C.F.R. Part 483. The September 6, 2019 survey findings were listed on a Statement of Deficiencies (Form CMS-2567) that was forwarded to you after the survey.

Accordingly, you were also notified on September 30, 2019, that, as a result of the certification/finding of noncompliance based on our determination that your facility was not in substantial compliance with participation requirements at 42 C.F.R. Part 483 as documented during the survey completed on September 6, 2019, the denial of payment for new admissions, previously imposed pursuant to 42 C.F.R. § 488.417(b), went into effect on September 18, 2019. Furthermore, you were also notified in this same September 30, 2019 letter that based on the survey completed on September 6, 2019, the civil money penalty continued in effect in the reduced amount of \$110.00 per day on (and subsequent to) September 6, 2019 and each day thereafter.

You were further advised that both remedies would remain in effect until this office either terminated your Medicare provider agreement, or determined that your facility had come into substantial compliance with the applicable Federal health and safety requirements. You were further informed in our September 30, 2019 notice that CMS would terminate your Medicare provider agreement no later than **January 12, 2020**-- six (6) months from the last day of the July 12, 2019 survey documenting your failure to be in substantial compliance -- if substantial compliance with the Medicare/Medicaid participation requirements was not promptly achieved and maintained. See 42 U.S.C. § 1395cc(b)(2); 42 C.F.R. §§ 488.56(b)(1) & 488.53(a)(1) and (3).

### **Determination of Substantial Compliance**

In response to your allegations that you had corrected all deficiencies identified during the September 6, 2019 survey, and were otherwise in substantial compliance with the nursing home requirements at 42

C.F.R. Part 483, the State Survey Agency conducted a second follow-up survey of your facility. That survey, which was completed on October 15, 2019, found that Laguna Honda Hospital & Rehabilitation Center DP SNF was in substantial compliance with applicable Federal requirements effective October 15, 2019. Accordingly, the termination of your Medicare provider agreement (as noticed in our September 3, 2019 and September 30, 2019 letters) will not be effectuated on January 12, 2020. Additionally, the denial of payment for new admissions (noticed in our September 3, 2019 and September 30, 2019 letters), which went into effect on September 18, 2019 was discontinued effective October 15, 2019. Furthermore, the civil money penalty (noticed in our September 3, 2019 and September 30, 2019 letters), which began accruing in the amount of \$6,740.00 per day beginning on February 6, 2019 through July 11, 2019 and totaled \$1,051,440.00 for the 156 days that immediate jeopardy to residents' health and safety existed; continuing at the reduced amount of \$1,285.00 per day effective July 12, 2019 through September 5, 2019; and continuing in the reduced amount of \$110.00 per day effective September 6, 2019 stopped accruing on October 15, 2019.

We have coordinated this action with the State Medicaid Agency who which will take concurrent action under Title XIX of the Social Security Act.

**Waiver of Right to Hearing With Regard to Certification/Finding of Noncompliance Based on the Complaint First Follow-Up Survey Completed on September 6, 2019**

In our September 30, 2019 notice, we advised your facility of its right to request an administrative hearing (*i.e.*, to appeal) to challenge our certification/finding of noncompliance based on our determination that Laguna Honda Hospital & Rehabilitation Center DP SNF was not in substantial compliance with controlling Medicare participation requirements at 42 C.F.R. Part 483 as documented during the survey completed on September 6, 2019; or to waive its right to such a hearing and, in accordance with 42 C.F.R. 488.436(b), to reduce the amount of the civil money penalty by thirty-five percent (35%). In response to our September 30, 2019 notice, Laguna Honda Hospital & Rehabilitation Center DP SNF timely submitted by letter dated October 4, 2019, and which was emailed to CMS on October 10, 2019, a request for a waiver of its right to challenge the certification/finding of noncompliance based on the survey completed on September 6, 2019.

Since you have exercised your option to waive your right to an administrative hearing under 42 C.F.R. Part 483, you are accepting this office's determination that your facility was not in substantial compliance as documented during the survey completed on September 6, 2019 (as set forth in the Statement of Deficiencies [Form CMS-2567] for that survey); and you are accepting all of the enforcement remedies under 42 C.F.R. 488.406 imposed in our notice of September 30, 2019 resulting from the certification/finding of noncompliance not being challenged (*i.e.*, the finding/certification premised upon the above-referenced survey). By your waiver, therefore, you have accepted all of the enforcement remedies that were imposed by this office as a result of our determination that your facility was not in substantial compliance with Part 483 participation requirements as documented during the survey completed on September 6, 2019.

The civil money penalty based on the findings of the complaint first follow-up survey completed on September 6, 2019 was in effect for thirty nine (30) days in the amount of \$110.00 per day beginning on September 6, 2019 through October 14, 2019 and totaled \$4,290.00. However, we have reduced the total amount of the civil money penalty of \$4,290.00 by thirty-five percent (35%) to **\$2,788.50** in accordance with 42 C.F.R. §488.436.

Accordingly, the total amount of the civil money penalty in the reduced amount of **\$2,788.50 (for the CMP accrual period of September 6, 2019 through October 14, 2019)** is now due and payable on **November 14, 2019**. See 42 C.F.R. 488.442(b)(3).

### **Payment of CMP**

To pay this penalty, you may select one of the following two options: (1) Mail a check to CMS; or (2) Electronic transfer of funds.

To ensure proper crediting of your payment, please include your **CMS Certification Number 55-5020** and the **CMP case number # 2019-09-LTC-208**, on your certified check. Make the certified check payable to the Centers for Medicare & Medicaid Services and send your certified check to:

Centers for Medicare and Medicaid Services  
Division of Accounting Operations  
Mail Stop C3-11-03  
P.O. Box 7520  
Baltimore, Maryland 21207

**If you are using a delivery service, such as Federal Express, use the following address only:**

Centers for Medicare & Medicaid Services  
Division of Accounting Operations  
Mail Stop C3-11-03  
7500 Security Boulevard  
Baltimore, MD 21244

**Do not send your original CMP payment check to this Regional Office.** Otherwise, your payment will be considered late and offset may be initiated and/or interest may be imposed. **Please send only a copy of your payment check to this Regional Office via fax to the attention of Yvonne Pon at fax # (443) 380-6332 or you may email to [Yvonne.pon@cms.hhs.gov](mailto:Yvonne.pon@cms.hhs.gov).**

**To pay by electronic transfer of funds to CMS:**

Please provide the information below to your financial institution. **Make sure the CMP # and CCN under remarks is entered in order to assure proper crediting of your payment.**

Subtype/Type Code:	10 00
Amount:	<b>\$2,788.50</b>
Sending Bank Routing Number:	<i>(your bank's routing number)</i>
ABA Number of Receiving Institution:	021 030 004
Receiver Name:	Treasury NYC
Receiving Institution Name:	Federal Reserve Bank of New York
Receiving Institution Address:	33 Liberty Street, New York, NY 10045
Beneficiary Account Number:	875050080000
Beneficiary Name:	Centers for Medicare & Medicaid Services (CMS)

Beneficiary Physical Address:	7500 Security Blvd., Baltimore, MD 21244
CMS Tax ID Number:	52-0883104
Federal Reserve Assistance Number:	(202) 874-6894
Remarks:	CMP # 2019-09-LTC-208 for CCN 55-5020

**If your payment is sent via electronic transfer, please fax a copy of the transaction confirmation to this Regional Office to the attention of Yvonne Pon at fax # (443) 380-6332.**

If payment through a certified check or electronic transfer in the full amount of **\$2,788.50** is not received by **November 14, 2019** (the due date of the penalty), the civil money penalty plus all interest that has accrued after the due date of **November 14, 2019** will be deducted in accordance with federal regulations, from sums owing to you by the Medicare and/or Medicaid programs. See 42 C.F.R. §488.442(c) and (d). For your information, the rate of interest is 10.125%. If deductions are taken, you will receive no further notice from this office.

If you have any questions, you may contact Yvonne Pon of my staff at (415) 744-3710.

Sincerely,

*Paula Perse for*

Steven D. Chickering  
Associate Regional Administrator  
Western Division of Survey and Certification

cc: State Agency  
State Medicaid Agency